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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,

10 Plaintiff,

11 v.

12 Juan Fernando Ramirez-Gonzalez,

13 Defendant.
14

No. CR-24-06252-001-TUC-RM (LCK)

ORDER

15 Pending before the Court is Defendant Juan Fernando Ramirez-Gonzalez's Motion
16 to Reopen Appeal of Order of Detention to District Court (Doc. 16), to which the
17 Government responded in opposition (Doc. 18). For the following reasons, the Motion
18 will be granted.

19 **I. Background**

20 Defendant is a 20-year-old United States citizen who was born in Arizona but has
21 lived in Nogales, Sonora, Mexico, since infancy. (Doc. 2 at 2.) According to the
22 Complaint, United States Customs officers found 50.22 kilograms of fentanyl, 35.96
23 kilograms of methamphetamine, and 3.12 kilograms of cocaine hidden in Defendant's
24 truck after he attempted to enter the United States through the Mariposa Port of Entry.
25 (Doc. 1.) After waiving his *Miranda* rights, Defendant admitted to participating in what
26 he believed was a cash smuggling operation for \$1,000 and making similar trips on three
27 occasions. (*Id.* at 2.) Defendant is charged in an Indictment with eight counts pertaining
28 to the alleged possession, distribution, and importation of fentanyl, methamphetamine,

1 and cocaine, all in violation of federal law. (Doc. 12.)

2 At Defendant's initial appearance, Magistrate Judge Michael A. Ambri ordered
3 him detained pending trial. (Docs. 3, 6.) Defendant subsequently appealed the Detention
4 Order. (Doc. 7.) At a hearing on September 10, 2024, this Court affirmed the Detention
5 Order but granted Defendant leave to refile a motion once he was placed at a suitable
6 treatment facility. (Doc. 11.) During the hearing, the Court also encouraged defense
7 counsel to inquire about whether the proposed third-party custodian, Pedro Mendoza,
8 would be willing to pay a cash bond and whether Defendant could secure employment.
9 (*Id.*)

10 **II. Applicable Law**

11 The Bail Reform Act permits a court to reopen detention proceedings if the
12 defendant presents new information that has a material bearing on whether there are
13 conditions of release that would reasonably assure his appearance at court proceedings
14 and the safety of others. 18 U.S.C. § 3142(f)(2).

15 A rebuttable presumption of detention applies pursuant to the Bail Reform Act if
16 the Court finds that there is probable cause to believe the defendant committed an offense
17 for which a maximum term of imprisonment of ten years or more is prescribed in the
18 Controlled Substances Act. 18 U.S.C. § 3142(e)(3)(A). The presumption of detention
19 remains an evidentiary factor even if the defendant presents evidence to rebut it. *United*
20 *States v. Hir*, 517 F.3d 1081, 1086 (9th Cir. 2008) ("The presumption is not erased when
21 a defendant proffers evidence to rebut it; rather the presumption remains in the case as an
22 evidentiary finding militating against release, to be weighed along with other evidence
23 relevant to factors listed in § 3142(g).") (internal quotations omitted). In making an
24 individualized detention determination, the court must consider: (1) the nature and
25 circumstances of the offense; (2) the weight of the evidence; (3) the defendant's history
26 and characteristics; and (4) the nature and seriousness of the danger to the community
27 posed by the defendant's release. 18 U.S.C. § 3142(g); *United States v. Winsor*, 785 F.2d
28 755, 757 (9th Cir. 1986).

1 **III. Discussion**

2 In the Motion to Reopen Appeal, Defendant presents new information that Pretrial
 3 Services confirmed that a rehabilitation center has found him suitable for inpatient
 4 treatment. (Doc. 16 at 1-2.) Additionally, Defendant emphasizes his United States
 5 citizenship, his prior work experience in a Nogales, Arizona produce warehouse¹, and
 6 statements from his girlfriend and defense counsel indicating that he can easily find
 7 employment and secure an apartment if released. (*Id.* at 2.) He also refers to the Pretrial
 8 Services Report, which recommended his release with conditions pending trial. (*Id.*)²
 9 However, Defendant states that the proposed third-party custodian, Mr. Mendoza, cannot
 10 provide a cash bond, has not confirmed his willingness to act as a custodian, and has
 11 ceased responding to counsel. (*Id.*)

12 The Government opposes the Motion, arguing that Defendant has failed to provide
 13 new and material information bearing on the issues of flight risk and danger to the
 14 community and has not rebutted the presumption of detention under 18 U.S.C. § 3142(e).
 15 (Doc. 18.)

16 The Court finds that Defendant has provided sufficient new and material
 17 information to justify a review of his detention. Specifically, defense counsel has
 18 confirmed with Pretrial Services that a rehabilitation facility has deemed Defendant
 19 suitable for inpatient treatment. Defendant has also shown a commitment to securing
 20 employment and stable housing, supported by statements from defense counsel,
 21 Defendant's girlfriend, and his previous work history in the United States. Furthermore,
 22 the Court acknowledges the recommendation for release with conditions outlined in the

23 ¹ The Pretrial Services Report states that Defendant has been unemployed since July 2024
 24 but has a history of intermittent employment at a produce factory in Nogales, Arizona.
 (Doc. 2 at 2.)

25 ² The Pretrial Services Report found that "[D]efendant poses a risk of nonappearance
 26 based on his long-term residence in, employment history, and familial ties to Mexico,
 27 lack of financial ties to the United States, unemployment status, previous mental health
 28 diagnosis and a prior suicide attempt, underage alcohol consumption and history of illicit
 substance use." (Doc. 2 at 4.) For similar reasons, and due to the nature of the alleged
 offense, the Report further found that "[D]efendant poses a risk of danger to the
 community." (*Id.*) However, the Report recommended that Defendant be released
 pending trial based on Pretrial Services' belief that certain conditions could minimize
 these risks. (*Id.*)

1 Pretrial Services Report. Finally, Defendant's citizenship, lack of criminal history, and
2 his readiness to comply with conditions of release provide reasonable assurances that he
3 will appear at future court proceedings and will not pose a danger to the community.
4 Because the Court concludes that conditions can be imposed to reasonably ensure
5 Defendant's appearance and the community's safety, the Court will order Defendant
6 released pending trial.

7 **IT IS ORDERED** that Defendant's Motion to Reopen Appeal of Order of
8 Detention to District Court (Doc. 16) is **granted**.


9 **IT IS FURTHER ORDERED** that Magistrate Judge Michael A. Ambri's Order
10 of Detention (Doc. 6) is **overruled**.

11 **IT IS FURTHER ORDERED** that Defendant shall be released to the treatment
12 facility identified by Pretrial Services.

13 **IT IS FURTHER ORDERED** setting a **Release hearing** before the Honorable
14 Bruce G. Macdonald on **December 10, 2024, at 3:00 p.m.**

15 Dated this 9th day of December, 2024.

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Honorable Rosemary Márquez
United States District Judge